



After reviewing the entire record, for purposes of preliminary hearing, the Appeals Board finds as follows:

(1) The finding of the Administrative Law Judge that claimant has failed to prove that her injuries arose out of and in the course of her employment with either of the respondents should be affirmed.

Claimant's testimony fails to persuade the Appeals Board that any activities performed while working for Holiday Resort caused injury. Claimant testified she began working part-time with Holiday Resort in July 1993 as a nurse's aide. As a part-time nurse's aide for Holiday Resort, claimant worked approximately two hours per day, seven days per week, caring for a client. Claimant performed very light duties in this position as she made breakfast for the client, made his bed, and then sat and visited with him. Also in July 1993, claimant began working full time for Heritage Manor as a nurse's aide. For Heritage, claimant performed generalized patient care. In late 1993 or early 1994, claimant noticed pain in her legs and knees and some pain in her hip. Claimant testified she first noticed her knee pain when ascending steps at home.

The medical evidence presented fails to support claimant's contention that her symptoms and injury are related to her work. Information from Dr. Bernard indicates that he feels claimant's condition is not related to her work activities. Also, the information from Dr. Miskew indicates that claimant has bilateral chondromalacia, but the condition is not related to her work. Likewise, the opinions from Doctors McKinney and Knappenberger do not support claimant's allegations that she has sustained injury at work.

(2) Because the Appeals Board has determined that the evidence fails to prove it is more probably true than not that claimant has sustained a work-related injury for which she is entitled workers compensation benefits, the issue of timely notice is rendered moot.

(3) The Appeals Board adopts the findings of the Administrative Law Judge in his Preliminary Hearing Order of November 17, 1994, that are not inconsistent with those expressed herein.

**WHEREFORE**, it is the finding, decision, and order of the Appeals Board that the Order of Administrative Law Judge Floyd V. Palmer, dated November 17, 1994, should be, and hereby is, affirmed in all respects.

**IT IS SO ORDERED.**

Dated this \_\_\_\_ day of February, 1995.

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BOARD MEMBER

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**BOARD MEMBER**

cc:   Derek R. Chappell, Ottawa, KS  
      Kim R. Martens, Wichita, KS  
      Bart E. Eisfelder, Kansas City, MO  
      Michael G. Patton, Emporia, KS  
      Floyd V. Palmer, Administrative Law Judge  
      George Gomez, Director